

Arkansas becomes the latest state to sue drugmakers and PBMs over insulin pricing

High Court's PBM Ruling Spurred State Lawmakers To Action

Healthcare Affordability State Policy Scorecard

Spotlight on State: Arkansas

This is part of a [series of summaries](#) that highlight notable legislation and initiatives in health policy and reform of all 50 states. Check back on The Source as we roll out additional states each week.

See [Arkansas](#) page.

Arkansas maintains a statewide all-payer claims database, established under the Arkansas Healthcare Transparency Initiative Act of 2015 which mandates collection of medical, dental, pharmacy, and other insurance claims information, including enrollment and provider data, from various entities.

Arkansas was also among the first states to recognize the benefits of telemedicine when it passed the Telemedicine Parity Law in 2015, requiring that a health benefit plan provide coverage and reimbursement for healthcare services provided through telemedicine on the same basis as health services provided in person. Since the coronavirus pandemic, the state further amended telemedicine laws to permanently extend emergency measures enacted for the duration of the pandemic that allows providers to treat patients via telehealth without first conducting an in-person exam.

To promote competition and limit market power in provider markets, Arkansas enacted the Healthcare Contracting Simplification Act in 2019, which prohibits the use of most-favored nation and all-products clauses in provider-insurer contracts. The state additionally requires court approval of mergers involving certain public benefit or religious corporations.

Arkansas also leads the nation in the regulation of pharmacy benefit managers in the pharmaceutical industry. The Arkansas Pharmacy Benefits Manager Licensure Act of 2018 addresses the lack of transparency among PBMs by placing comprehensive licensure and oversight over PBMs, as well as banning PBM “gag clauses” that prevent pharmacists from discussing the total price of a drug or cheaper alternatives. Another PBM law, however, became the subject of a Supreme Court case ([Rutledge v.](#)

[PCMA](#)) that may have lasting impact for state regulation of healthcare prices. Act 900 (SB 688) was originally enacted in 2015 and required the disclosure of generic drug pricing and set a floor on prices that PBMs can pay to pharmacies for generic drugs. The drug pricing law was challenged by PCMA on the grounds of ERISA preemption and was struck down by the District Court of Arkansas in 2017 and affirmed by the 8th Circuit on appeal. The Supreme Court, however, overturned the decision and upheld the state law as permissible price regulation under ERISA.

New on The Source: Downloadable Chart of Merger Review Legal Authority for All 50 States

Newly available on the Source: our health policy research team compiled a user-friendly, [downloadable Excel spreadsheet](#) of all provider merger review authority for all 50 states, now on the [Market Consolidation](#) interactive key issue page. The detailed chart provides clickable citations of all statutes, regulations, and state authority for mergers, acquisitions, conversions, or changes in ownership of healthcare providers.

The comprehensive spreadsheet allows side-by-side comparisons of the level of legal authority for each state to receive notice of impending transactions, review those transactions, and approve, conditionally approve, or disapprove them. It is conveniently

organized by each type of state entity:

- Attorney general notice, approval, and review criteria
- Court approval requirement and criteria
- State health agency notice, approval and review criteria
- Certificate of Need (CON) notice, approval, and review criteria

Click on each citation for a direct link to the statutory text and other detailed information as provided by the [Database of State Laws Impacting Healthcare Cost and Quality](#) (SLIHCQ). All laws and regulations are current as of July 2021.

Click [here](#) to download.

HB 1254

To Authorize The Arkansas Medicaid Program To Recognize An Advanced Practice Registered Nurse As A Primary Care Provider.

HB 1404

To Amend The Exemptions Of Certain Entities From Insurance Regulation, including noninsurance healthcare benefits coverage provided by a not for-profit membership organization

HB 1459

To Ensure That All Healthcare Providers Are Reimbursed For Behavioral Health Services By The Arkansas Medicaid Program.

HB 1515

To Amend The Medicaid Provider-led Organized Care Act; And To Prohibit Ownership Interest In More Than One (1) Risk-based Provider Organization. For risk-based provider organizations issued contracts with the Arkansas Medicaid Program before July 1, 2021, the carrier or participating provider having beneficial ownership in more than one (1) risk-based provider organization as identified by the Insurance Commissioner shall eliminate the conflicting ownership by beginning honest, good-faith negotiations to divest ownership in one (1) or more risk-based organizations through the purchase or redemption of the ownership interest causing the conflict on commercially reasonable terms on or before January 1, 2023.

HB 1569

To Establish The Arkansas Fairness In Cost Sharing Act.